

Nebraska State Legislature

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COMMITTEES

Education
Natural Resources

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Dear Secretary Clinton

We are writing in our capacity as Nebraska State Senators to request that the US Department of State delay its decision regarding the proposed Keystone XL pipeline until after the end of the 2012 Legislative session in May 2012. We request this extra time so that the Nebraska Legislature can take action on issues vital to the interests of the State of Nebraska and the United States.

The State of Nebraska is home to twin jewels - the Sand Hills and the Ogallala Aquifer. As the largest aquifer in the United States with a saturated depth of more than 1000 feet in many parts of the Sand Hills, the Ogallala Aquifer has an immense strategic value to the United States; this value will only increase as world populations increase and the world's demand for food increases. The Sand Hills are ancient sand dunes and therefore one of the most fragile environments in the United States. TransCanada plans to run its proposed pipeline through a part of the Sand Hills where the Ogallala Aquifer is both deepest and closest to the surface, and most vulnerable to contamination.

In stark contrast to the mature federal regulatory scheme for natural gas pipelines, federal regulation for oil pipelines is thus far inadequate. This has created widespread uncertainty among members of the Nebraska Legislature regarding Nebraska's rights and responsibilities in the complex arena of pipeline regulation as we have wrestled with the Keystone pipeline over the past year.

The 2011 Legislature did pass an important law dealing with reclamation; however, many significant issues remain:

- **Siting/Routing.** We now understand, after much confusion and obfuscation, that States have the primary responsibility over siting and routing pipelines. We agree with United States Senator Mike Johanns that TransCanada should pursue a route that avoids the Sand Hills.
- **Eminent Domain.** TransCanada has threatened Nebraska landowners with eminent domain even though they have not been granted a permit to operate this pipeline in the United States. We are concerned about the legality of this maneuver.

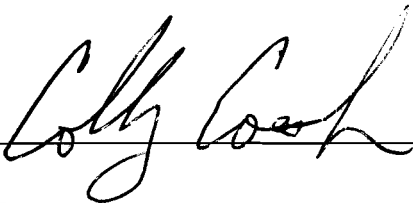
- **Liability.** Unlike states such as South Dakota, Nebraska has not yet determined state-wide liability standards.
- **Emergency response.** It is not clear who among the various Federal and State responders has the primary responsibilities for emergency response, especially in the Sand Hills with its low population and sparse transportation infrastructure.
- **Permitting and oversight.** Although legislation was introduced to give the Nebraska Public Service Commission oversight and permitting authority for oil pipelines, more time is needed to work with Nebraska State Agencies to develop standards and procedures.

With new awareness, information and commitment, the Legislature will be studying and introducing legislation in the 2012 Legislative session to address and protect the interests vital to the State of Nebraska and the United States as listed above.

We respectfully ask you to give the State of Nebraska this additional opportunity to enact state legislation to protect our land, our water and our children's future.

Sincerely,

Senator Colby Coash



Senator Annette Dubas



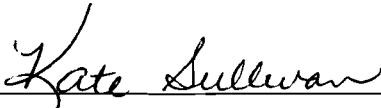
Senator Tony Fulton



Senator Ken Haar



Senator Kate Sullivan



cc: Senator Mike Johanns
Senator Ben Nelson
Congressman Adrian Smith
Congressman Jeff Fortenberry
Congressman Lee Terry